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City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

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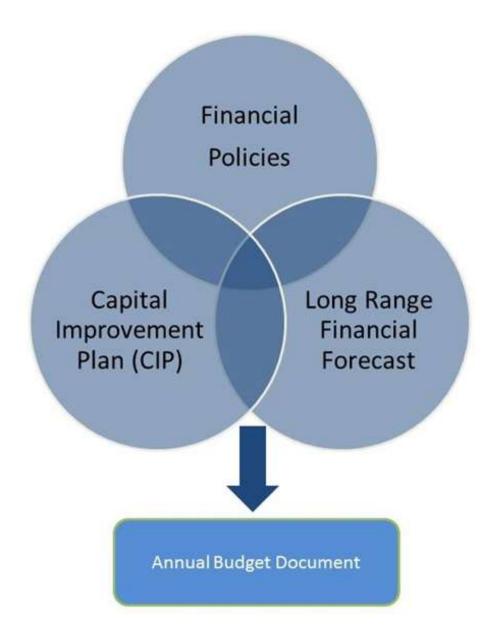
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The Pillars of the Budgeting Process

I hope everyone enjoyed their Halloween and the fun (and calories) that come with it! This past weekend, I had the pleasure of attending the Massachusetts Selectmen Association's fall conference and participating on a panel along with Zack Blake, Chief of our Technical Assistance Bureau (TAB). The subject matter was best practices and I'd like to share with you some of the points we offered to the group.

While there are numerous best practices in key areas such as monthly cash reconciliations, investment policies, and use of one-time funds including Free Cash, I focused primarily on the three high-level best practices of financial policies, long-range forecasting, and capital planning. As depicted in the diagram below, these three best practices are interconnected. Not only do they drive the budget process, but they also play a critical role in creating an environment of long-term financial sustainability.



Done correctly, these serve as the pillars of the budgeting process and include:

- A set of prudent financial policies that guide the community in core areas such reserve levels, use of Free Cash, and levels of debt.
- A Capital Improvement Plan (CIP) that identifies capital projects, provides a schedule for implementation, and identifies financing options. These projects address the needs of the many assets in the municipality, including schools, libraries, city/town halls, streets, water/sewer infrastructure, public safety facilities, senior centers, and parks and playgrounds.
- A financial forecast that helps a municipality assess long-term financial implications of both current and proposed policies and programs. It also acts as a bridge between the operating budget and the CIP, merging fiscal policy and economic variables to

establish a coordinated managerial direction.

The annual budget document coalesces all of these components into a quantified financial plan that also serves as a policy document, an operations guide, and a communications device.

Financial policies, long-range financial forecasts and Capital Improvement Plans are all included in the Community Compact Cabinet's (CCC) best practice program. To date, nearly 100 municipalities have chosen at least one of these best practices, helping them improve their overall financial management.

At the conference, Zack Blake shared his "observations from the field," including some favorable and unfavorable trends.

Favorable trends include:

- Town administrators/managers increasingly given the authority to orchestrate the budget process
- A shift away from elected finance officials toward appointed finance officials
- More municipalities adopting financial policies, developing capital plans, and using long-range forecasting

Unfavorable trends include:

- Cash reconciliations not performed monthly in all communities
- Critical data not backed-up regularly
- Siloed approaches to financial management rather than a team approach or formal finance department

We also discussed the loss of talented and seasoned municipal officials to retirement. As these retirements increase in the coming years, both the town manager/administrator field and the world of municipal financial officials will be directly impacted. Succession planning and talent development play a critical role in addressing this ongoing issue. Municipal officials facing this challenge should give serious consideration to sharing or regionalizing services, an option presented through one of the CCC's best practices.

DLS is currently working with communities as they explore the potential to share a town administrator or form a joint finance team. If there ever was a time to consider sharing services across boundaries, now is that time. With the advent of cloud-based financial systems, multiple municipalities can participate in a collaborative finance team designed to carry out core accounting, collection, treasury, and assessing roles.

Attracting and retaining qualified municipal finance employees remains another challenge as more and more long-term employees retire. At the conference, we stressed the importance of offering competitive salaries in order to ensure potential candidates don't pursue other, more lucrative offers. It's becoming more challenging than ever to find highly qualified candidates, and you need to position your community to get those candidates. While this approach may cost you more than you were paying for the previous employee, it's an investment in the long-term fiscal health of your community.

Finally, I'd like to congratulate our DLS Municipal Finance Law Bureau Chief Kathleen Colleary for receiving a 2016 Manuel Carballo Governor's Award for Excellence in Public Service. Governor Baker, Lieutenant Governor Polito, and Secretary Lepore presented this prestigious award to Kathleen last Friday at the State House.

For 36 years, Kathleen's profound understanding of Massachusetts General Laws, statutes, and regulations, have only been matched by her keen insight and indefatigable work ethic. Her attention to detail and deep subject matter knowledge played a major role in the development and passage of "An Act to Modernize Municipal Finance and Government." She continues to diligently ensure proper implementation of this legislation through the information and direction provided both in this edition's *Ask DLS* and in the Informational Guideline Releases slated for the coming weeks and months. I'm grateful and fortunate to work with Kathleen and I congratulate her on this well-deserved honor.

Sean Cronin Senior Deputy Commissioner of Local Services

By the Numbers

City & Town will provide updates on the progress of the tax rate and certification season in each edition through the rest of the calendar year. In addition to these helpful statistics, we're also pleased to announce that you can now follow the tax rate setting process in real time. Thanks to our Municipal Databank staff, this public information is available 24/7 by clicking here.

Preliminary Certifications: 79 Communities Approved

Final Certification: 49 Communities (of 117 Total in Certification Year)

LA4: 194 Approved (228 Submitted)

LA13/ New Growth: 194 Approved (223 Submitted)

Tax Rates: 51 Approved

Balance Sheets: 200 Approved

Aggregate Free Cash Approved Total: \$853,576,299

Constitutionality of Personal Property Tax Rate Upheld

Bureau of Municipal Finance Law

On November 2nd, 2016 the Supreme Judicial Court handed down its long-awaited decision in Verizon New England, Inc. v. Assessors of Boston (SJC No. 12034) and upheld the constitutionality of the current property tax classification law that allows a split tax rate for personal property.

The taxpayer Verizon had challenged the tax rate allowed for personal property by MGL c. 40, sec. 56 as inconsistent with the constitutional guarantee of proportional property tax assessments. See Mass. Const., Pt. II, c. 1, sec. 1, art. 4, as amended by art. 112 of the Amendments to the Constitution. Approved by the voters in 1978, the 112th Amendment modified the longstanding proportionality standard that all classes of property must be taxed at the same rate in a given city or town. Though silent as to personal property, the amendment allowed the Legislature to establish different tax rates for up to four classes of real property.

The taxpayer argued that personal property must be taxed at a rate reflecting the ratio of the value of personal property to the total value of all the taxable property in Boston, i.e., the single rate that would apply to all property if property tax classification was not in effect. The Court held that the purpose of the 112th Amendment and MGL 40, sec. 56 was to permit a lower tax rate for residential property. Yet proportionality was maintained because personal property was taxed at the same rate used for commercial and industrial properties. In reaching its decision, the Court distinguished constitutional interpretation as a statement of general principles and not a specification of details like a statute.

Therefore, the property tax classification system provided for in MGL 40, sec. 56 continues to govern taxation of personal property in the Commonwealth.

Ask DLS: Municipal Modernization

This month's *Ask DLS* features questions involving the effect of certain changes made by the Municipal Modernization Act, <u>Chapter 218 of the Acts of 2016</u>, that are taking effect on November 7, 2016. A summary of the changes made by this Act is found in the <u>August 18, 2016 issue of City & Town</u>. Please let us know if you have other areas of interest or send a question to <u>cityandtown@dor.state.ma.us</u>. We would like to hear

from you.

What is the impact of <u>Municipal Modernization Act</u> amendments of existing general law statutes that are not applicable in some municipalities because special acts apply instead? For example, if a special act provides for a city or town to grant a residential exemption up to a certain amount and sets a deadline for exemption applications "notwithstanding" <u>MGL c. 59, sec. 5C</u>, what is the effect of the Municipal Modernization amendment of <u>MGL c. 59, sec. 5C</u> regarding the amount of the exemption and deadline for exemption application on the special act?

None. A special act remains in effect and continues to govern on or after the November 7, 2016 effective date of the Municipal Modernization Act unless the community seeks to repeal it so as to operate under the amended general law. In this example, the community's special act would determine the maximum amount of the residential exemption and the due date for residential exemption applications in that community.

What is the impact of <u>Municipal Modernization Act</u> amendments of local acceptance statutes that were accepted by municipalities before the Act's November 7, 2016 effective date?

As a general rule, a municipality that accepts a statute accepts any amendments the legislature subsequently makes in the statute. Therefore, if a municipality has accepted a local option statute, then it operates under the statute as amended. No further action is necessary unless the legislature provides otherwise. In the Municipal Modernization Act there is one such exception, which applies to municipalities and other local entities that accepted MGL c. 32B, sec. 20 to establish an Other Post-Employment Benefits (OPEB) Liability Trust Fund before November 7, 2016.

What action does a city or town that currently has an OPEB Fund under MGL c. 32B, sec. 20 and wishes to adopt the changes made to that statute by the Municipal Modernization Act have to take?

Section 238 of the Municipal Modernization Act specifically provides that OPEB funds established before the effective date of the Act, November 7, 2016, will continue as originally established, unless the community "reaccepts said section 20 of said chapter 32B after the effective date of this act." Therefore, to operate an OPEB fund under the amended section 20, the city or town's legislative body would have to vote to reaccept MGL c. 32B, sec. 20 after November 7, 2016.

How does the Municipal Modernization Act change in the treatment of premiums received when issuing debt under MGL c. 44, sec. 20 apply to premiums received for borrowings authorized before November 7, 2016, the effective date of the Act?

Section 67 of the Municipal Modernization Act amends MGL c. 44, sec.

20 which governs the treatment of premiums received in connection with the sale of bonds or notes. Currently, premiums (net of issuance costs) are general fund revenue. As of November 7, 2016, premiums (net of issuance costs) are: (1) used to pay project costs and to reduce the amount of the borrowing authorization by the same amount when the borrowing vote so authorizes; or (2) reserved for appropriation for capital projects for which a loan has been, or may be, authorized for an equal or longer period of time than the loan for which the premiums were received.

Bonds or notes sold before November 7, 2016. Premiums received on bonds or notes authorized and sold before the effective date of the Municipal Modernization Act are general fund revenue that may not be spent without appropriation. MGL c. 44, sec. 53. However, if the borrowing is the subject of an approved Proposition 2 1/2 debt exclusion, MGL c. 44, sec. 20 requires that the amount excluded be adjusted to reflect the true interest cost of the borrowing. Therefore, general fund premiums received for debt excluded borrowings must either be (1) reserved for appropriation to offset budgeted debt service in future years for the loan, or (2) appropriated to pay project costs. In the second option, the borrowing authorization must also be reduced by the same amount. The appropriation for project costs and commensurate reduction in borrowing authorization must be included in the original legislative body vote authorizing the loan, or a subsequent vote before or after the sale.

Bonds or notes sold on or after November 7, 2016. Regardless of when the city or town authorized the loan, premiums received on bonds or notes sold on or after the effective date of the Municipal Modernization Act must be: (1) used to pay project costs and to reduce the amount of the borrowing authorization by the same amount when the borrowing vote so authorizes; or (2) reserved for appropriation for capital projects for which a loan has been, or may be, authorized for an equal or longer period of time than the loan for which the premiums were received. Note, however, that a city or town receiving premiums for debt excluded bonds or notes sold on or after November 7, 2016 will need to use the option to pay project costs and reduce the borrowing authorization in order to make the required interest cost adjustment. The authorization to use that option should be included in the original legislative body vote authorizing the loan, but may also be included by an amendment of the loan authorization that is voted *before* the sale.

Bond and municipal counsel should be consulted for language to be used to amend existing borrowing authorizations and to include in future authorizations in order to use premiums for project costs and reduce the amount authorized.

How does the <u>Municipal Modernization Act</u> change the use of surplus bond proceeds received before November 7, 2016, the effective date of the Act? When the Act becomes effective, how is the \$50,000 balance available for application to existing debt

determined in a multi-purpose loan?

Regardless of when a city, town or district authorizes a loan for a particular purpose, project or acquisition, sold the bonds or notes, or completed the purpose, project or acquisition for which the loan was authorized, the proceeds remaining are available funds for restricted purposes under MGL c. 44, sec. 20. Both before and after the November 7, 2016 effective date of the Act, the determination of available surplus proceeds for a loan is based on the amount borrowed and spent for each purpose for which the city, town or district has authorized debt. Selling bonds or notes for multiple authorized purposes at the same time does not alter the purpose, term or amount of each loan. For example, a treasurer sells multi-purpose bonds for three projects for which the city, town or district had authorized debt of \$100,000 (project 1), \$2,000,000 (project 2) and \$20,000,000 (project 3). After completion and payment of all expenses, \$750 of the proceeds remain for project 1, \$48,500 for project 2 and \$90,000 for project 3.

Use of the surplus proceeds before November 7, 2016. Before the November 7, 2016 effective date of the Act, a city, town or district may only appropriate an available surplus of (1) \$1,000 or less from a particular loan to pay debt service on that loan, or (2) any amount from any loan for any purpose for which the city, town or district may borrow for an equal or greater term than the term for which that loan was issued. Therefore, before November 7, 2016, only the \$750 available surplus for project 1 could be appropriated to pay debt service and then only on the debt service for the project 1 loan. Any other use of the available surpluses for each loan would be limited to appropriation for another purpose for which a loan can be authorized for an equal or greater term than that loan was issued.

Use of the surplus proceeds on or after November 7, 2016. On or after November 7, 2016, however, an available surplus of (1) \$50,000 or less for a particular loan may be applied to any debt service with the approval of the chief executive officer, or (2) any amount may be appropriated any purpose for which the city, town or district may borrow for an equal or greater term than the term for which that loan was issued. Therefore, on or after November 7, 2016, the available surpluses of \$750 for project 1 and \$48,500 for project 2 may be applied to the debt service on any loan with the approval of the chief executive officer. Again, any other use of the available surplus for each particular loan would be limited to appropriation for another purpose for which a loan can be authorized for an equal or greater term than that loan was issued.

What does a city or town that accepted MGL c. 40, sec. 57, which allows the denial, suspension, revocation or non-renewal of local licenses and permits for applicants who are delinquent in paying their local taxes, charges and fees, have to do in order to take advantage of the amendments to the statute made by the Municipal Modernization Act that allow a collector to issue delinquency lists

to permitting and licensing boards more than once a year? If a special town meeting is scheduled before the Act's November 7, 2016 effective date, may the town re-accept MGL c. 40, sec. 57 and amend its implementation by-law at that meeting or must it wait until November 7, 2016 to do so?

As indicated in a previous question, the legislative body of the city or town does not need to re-accept MGL c. 40, sec. 57. By accepting a statute, a city or town agrees to accept all amendments the legislature may make to it in the future. An exception to this rule is where the legislature expressly provides that the amendments do not apply unless the city or town takes some additional action. For these amendments, the legislature did not require re-acceptance or other action.

However, because MGL c. 40, sec. 57 requires the adoption of an implementation ordinance or by-law, a city or town that has accepted the statute will need to amend its existing ordinance or by-law to (1) eliminate the current minimum 12-month delinquency requirement and (2) direct the collector to disseminate a delinquency list to the community's permitting or licensing boards on a more frequent schedule. If a city or town does not wish to take advantage of these changes, it does not need to amend its ordinance or by-law and may continue to operate as it does now.

For a town, the effective date of new or amended by-laws is governed by MGL c. 40, sec. 32. Within 30 days of the adjournment of the town meeting adopting the new or amended by-law, the town clerk must submit it to the Attorney General. The Attorney General then has 90 days to review the by-law for consistency with the Constitution and laws of the Commonwealth and issue a decision either approving or disapproving the by-law. If approved, a general by-law takes effect on the date the posting and publishing requirements of MGL c. 40, sec. 32 are met, unless a later effective date is set out in the by-law. Therefore, it appears unlikely that any implementation by-law adopted at an already scheduled town meeting held before November 7, 2016 could take effect until after that date. Municipal counsel should be consulted, however, about whether to include specific language in the amended by-law in that regard. We understand from the Attorney General's office that there can be instances where by-laws are adopted to implement special legislation not yet enacted, or address other situations to occur later, and those by-laws can be approved by the Attorney General and take effect after the contingency is met.

The amendment of a city's existing implementation ordinance does not need the approval of the Attorney General under MGL c. 40, sec. 32. Municipal counsel should be consulted about the applicable charter provisions and best course of action regarding the timing of any amendment.

How does the <u>Municipal Modernization Act</u> impact the treatment of parking meter revenues?

Before the Municipal Modernization Act, parking meter or other parking receipts had to be reserved for appropriation under MGL c. 40, secs. 22A, 22B and 22C. As of the November 7, 2016 effective date of the Act, however, those receipts are unrestricted and unreserved general fund revenue unless the city or town accepts provisions in those statutes in order to credit them to a "receipts reserved for appropriation" special revenue fund. Any revenue received before November 7, 2016 remains in the receipts reserved special revenue fund to be appropriated accordingly.

If a city or town wants to continue treating parking revenues as "receipts reserved for appropriation," its legislative body must accept the provisions in the statutes. If the city or town does not use any of the parking revenues it anticipates receiving on or after November 7, 2016 as estimated receipts when setting its fiscal year 2017 tax rate, it may in an acceptance vote taken on or before June 30, 2017 provide that any revenue received on or after November 7, 2016 be credited to the receipts reserved fund. Otherwise, the acceptance will only apply to revenues received on or after the effective date of the vote, or later effective date specified in the vote.

State House Notes Program Update

Bill Arrigal and Gerry Cole - Bureau of Accounts Public Finance Section, Susan Whouley - Bureau of Accounts Analyst

This is an update to a <u>City & Town, December 3rd, 2015</u> article regarding activity in the State House Notes program.

First established in 1911, the Massachusetts State House Notes Program is a convenient, no-cost note certification procedure for the issuance of short-term debt and long-term serial and refunding notes by a governmental entity. Administered by the Public Finance Section of the Bureau of Accounts, the program provides an alternative to the certification of notes procedure by commercial banks.

What are State House Notes?

State House Notes are borrowing instruments for local governmental entities for the short term. The various notes are known by the following names and acronyms:

- Revenue Anticipation Notes (RANs)
- Bond Anticipation Notes (BANs)
- Renewal of Bond Anticipation Notes (RBANs)
- State Aid Anticipation Notes (SAANs)
- Federal Aid Anticipation Notes (FAANs)

- Refunding Notes
- Serial Note

They all, however, must receive certain local approvals, and communities must send required supporting documentation to the Bureau of Accounts for the Director's certification. Lenders await this certification before forwarding funds to the borrower. Certification as to the validity of a State House Note is a prerequisite to accessing the credit market.

Statewide Trend

Annual city and town financial report data (a.k.a. Schedule A) since the Great Recession (December 2007 - June 2009) indicates that total short-term borrowing issued by all cities and towns hasn't varied greatly.

Short-Term Borrowing by All Cities and Towns (in \$ millions)							
FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015
1,325	1,499	1,324	1,055	1,209	1,241	1,458	1,272

Source: DLS Municipal Databank

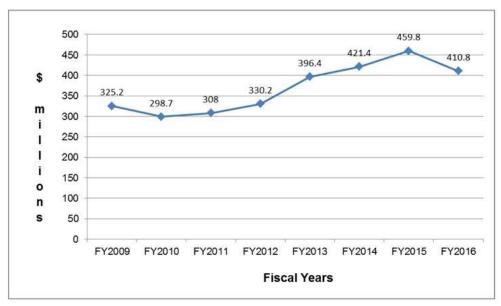
However, since interest rates have remained relatively low since FY2008, the question becomes whether a steady rise in rates from this point forward will affect the level of short-term borrowing, favoring a rather immediate issuance of long-term debt. The answer is probably dependent upon many factors including:

- Interest rate decisions by the Federal Reserve
- Overall strength in the municipal bond market
- Overall strength in the local economy
- Local purchasing and construction schedules
- Local desire for infrastructure improvement and purchase of capital assets

State House Notes by the Numbers: FY2009 to FY2016

The following graph shows the total statewide dollar amount of State House Notes approved from FY2009 to FY2016.

State House Notes (\$ Approved)



Source: DLS State House Notes Program

The line graph shows that the dollar value of State House Notes certified in FY2009 was \$325.2 million and \$410.8 million in FY2016. This is a \$85.6 million or 26% increase for the period shown. The greatest annual total dollar value approved during this period was in FY2015 and the least approved was in FY2010.

In terms of number of notes issued during each year of this period, the greatest was in FY2013 and the least in FY2010.

State House Notes - # of Notes Approved							
FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
443	407	421	494	500	474	476	477

Source: DLS State House Notes Program

Noticeable in the prior two charts was the \$49 million reduction in the total dollar amount of State House Notes from one fiscal year to the next despite a similar total of notes approved in FY2015 and FY2016.

Activity in the State House Notes Program, both in dollars and number of notes approved, does not, in our opinion, necessarily reflect a statewide, short-term borrowing trend but rather the short-term borrowing activity of local governmental entities that have chosen to participate in the program.

Notes by Purpose

The following two tables show that for the 477 notes approved for FY2016, the greatest number were approved for Municipal Purpose Loans (MPLs), followed by departmental equipment, school remodeling, and water purposes. MPLs are loans in which there are two or more separate authorizations for separate purposes. If taken as a group, however, there were at least 71 notes borrowed for school-related purposes that included both building and remodeling.

	FY2015	FY2016		FY2015	FY2016
Bridge Repair	0	1	Departmental Equipment	59	63
Building	17	16	Dredging	1	0
Building Remodeling	12	17	Emergency	15	10
Cable	3	2	Energy Conservation	5	3
Capital Projects	1	1	Eng and Arch	3	5
Computer Hardware	4	7	Environmental	0	1
Conservation Land	4	1	Harbor	3	1
Dam Repair	2	7	Highway	24	16
Deficit	3	3	Land Acquisition	25	17

	FY2015	FY2016		FY2015	FY2016
Landfill	2	1	School Buildings	13	7
Library	1	1	School Feasibility	5	6
Medical Payments	1	1	School Remodeling	42	39
Municipal Purpose	125	128	Sewer	18	20
Parking Lot	1	0	Sewer Treatment Plant	9	6
Public Way	3	4	Solid Waster Transfer	2	3
Recreaton	6	7	State 911	1	0
Revenue	16	18	Street	6	12
Schools	20	19	Water	24	34

Source: DLS State House Notes Program

There were no major variances in purposes borrowed for the fiscal years shown.

Notes by Type

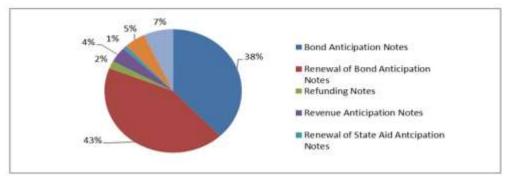
The following table and chart show that of the 477 notes approved for FY2016, the greatest number of notes approved by type were Renewals for Bond Anticipation Notes, followed by new Bond Anticipation Notes and Serial Notes.

Type of Notes	Bond Anticipation Notes	Renewal of Bond Anticipation Notes	Refunding Notes	Revenue Anticipation Notes and Renewal	Renewal of State Aid Anticipation Notes	State Aid Anticipation Notes	Serial Notes
# Notes FY2016	182	206	10	18	3	24	34
# Notes FY2015	190	191	10	18	5	33	29

Source: DLS State House Notes Program

Notes by Percentage

By percentage, BANs and RBANs amounted to 81% of notes approved by the program.



Source: DLS State House Notes Program

FY2016

For the 477 notes approved in FY2016, 398 were for cities or towns, 52 for regional school districts, 24 for special purpose districts, and three for counties. These approvals often included the same entity more than once. Other statistics showed:

- Greatest dollar amount (\$6.335 million), least (\$4,000) and median (\$533,000)
- Greatest interest rate for a Serial Note (4.0%), least (1.1%)
- Greatest interest rate for a non-Serial Note (1.75%), least (0.4%), and median (0.6%)
- Greatest number of days to maturity for non-Serial Note (425 days), least (9 days), and median (285 days)
- Three top purchasers of notes: Eastern Bank, Century Bank and Trust Company, and Easthampton Savings Bank
- Greatest number of monthly notes processed in June (98), least in March (18)

Conclusion

Apart from convenience and no-cost, the program continues to provide a useful service especially to smaller towns and districts with no credit ratings from national credit rating agencies such as Moody's, Standard + Poor's, or Fitch. Also, the program can help these entities that borrow relatively small amounts of money for relatively short periods of time.

To learn more about State House Notes, please visit our website.

November Municipal Calendar

November 1	Taxpayer	Semi-Annual Tax Bill - Deadline for First Payment	
		According to MGL Ch. 59, Sec. 57, this is the deadline for receipt of the first half semi-	

		annual tax bills or the optional preliminary tax bills without interest, unless bills were mailed after October 1st, in which case they are due 30 days after mailing.
November 1	Taxpayer	Semi-Annual Tax Bills - Application Deadline for Property Tax Abatement
		According to M.G.L. Ch. 59, Sec. 59, applications for abatements are due on the same date as the first actual tax installment for the year.
November 1	Taxpayer	Quarterly Tax Bills Deadline for Paying 2nd Quarterly Tax Bill Without Interest
November 1	Treasurer	Deadline for Payment of First Half of County Tax
November 15	DESE	Notify Communities/Districts of Any Prior Year School Spending Deficiencies By this date, or within 30 days of a complete End of Year Report (see September 30th), DESE notifies communities/districts in writing of any additional school spending requirements.
November 30	Selectmen/Mayor	Review Budgets Submitted by Department Heads
		This date will vary depending on dates of town meeting.
Final Day of Each Month	State Treasurer	Notification of Monthly Local Aid Distribution Click www.mass.gov/treasury/cash- management to view distribution breakdown.